

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department - Telangana State - Bhadravadi Kothagudem District - Revision Petition filed by Sri Kalakoti Subba Rao S/o late Appa Rao R/o Patwarigudem Village, Dammapeta Mandal, Bhadravadi Kothagudem District (erstwhile Khammam District) (now residing at H.No.2-478, Pushkarghat Road, Tallapudi (V) & Mandal, West Godavari District) against orders of the Agent to Government, Khammam in CMA No.74/98, dated 27.7.1999 in respect of land admeasuring acs.14.35 gts in Sy.No.508 of Patwarigudem Village, Dammapeta Mandal, Bhadravadi Kothagudem District (erstwhile Khammam District) - ALLOWED - Orders - Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.66

Dated:09.10.2023.

Read the following:-

1. Orders of Special Deputy Collector (TW), Palvancha in LTR case No.1072/74, dated 12.12.1975.
2. Orders of Special Deputy Collector (TW), Palvancha in LTR case No.174/79/STP, dated 24.3.1982.
3. Orders of Special Deputy Collector (TW), Palvancha in LTR case No.983/94/DPT, dated 1.5.1995.
4. Orders of Special Deputy Collector (TW), Palvancha in LTR case No.984/94/DPT, dated 31.10.1998.
5. Orders of Agent to Government, Khammam in CMA No.74/98, dated 27.7.1999.
6. Revision Petition filed by Sri Kalakoti Subba Rao S/o late Appa Rao, R/o Patwarigudem Village, Dammapeta Mandal, erstwhile Khammam District dated 29.12.2003.
7. Govt.Memo.No.2256/SWD/LTR/2004(300)-1, dated 20.03.2004.
8. Orders of the Hon'ble High Court of Andhra Pradesh at Hyderabad in WP No.16373 of 1999, dated 18.11.2003.
9. From the Agent to Government, Khammam, letter Rc.No.F2-CMA/74/98, dated 28.4.2006.
10. Govt.Letter No.2256/LTR-2/2004, dated 04.08.2007, 03.09.2007, 18.03.2008, 11.06.2010, 15.06.2017, 29.08.2017, 27.02.2018, 26.04.2018, 22.06.2018, 03.08.2018 and 26.11.2019.
11. Written arguments filed by Counsel for Revision Petitioner dated 17.9.2007.
12. Representation dated 7.12.2019 of Revision Petitioner, Sri Kalakoti Subba Rao.
13. Additional written arguments filed by Revision Petitioner dated 30.1.2020.

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ORDER

In the reference 6th read above, Sri Kalakoti Subba Rao S/o late Appa Rao R/o Patwarigudem village, Dammapeta Mandal, Bhadravadi Kothagudem District (erstwhile Khammam District) (now residing at H.No.2-478, Pushkarghat Road, Tallapudi (V) & Mandal, West Godavari District) has filed the present Revision Petition before the Government on 29.12.2003 against orders of the Agent to Government, Khammam in CMA No.74/98, dated 27.7.1999 in respect of land admeasuring acs.14.35 gts in Sy.No.508 of Patwarigudem Village, Dammapeta Mandal, Bhadravadi Kothagudem District (erstwhile Khammam District).

2. The history of the case is that the Special Deputy Collector (Tribal Welfare), Palvancha had taken up suo-motu enquiry in case No.1072/74 between Thurram Rajulu (died) represented by Thurram Surappa (brother) R/o Patwarigudem (Tribal Pattedar) and Kalakota Appa Rao R/o Patwarigudem (Non-Tribal Respondent & father of Revision petitioner herein) and passed orders on 12.12.1975 in the reference 1st read above- gist of which is as under:

- Respondent attended on 29.08.1975 and produced a sale agreement dated 10.06.1961 executed by Thurram Rajulu and Surappa in his favour for Rs.350/-. He contended that the land was purchased 15 years ago and from the date of purchase it has been in his possession.

(Contd....2)

- One of the executants of the sale agreement viz., Thurram Surappa deposed that he and his brother had sold the land 15 years ago for a consideration of Rs.450/- and possession of the land was delivered to the respondent long back.
- Patwari of the village who is scribe of the said sale agreement stated that the sale took place in 1961 and Land Revenue receipts were issued for all the years and that a bore well was dug by the respondent 10 or 12 years ago.
- In view of the above evidence, the Special Deputy Collector (Tribal Welfare) felt that there is no need to interfere with the possession of the respondent over the suit lands and dropped the case.

3. In the reference 2nd read above, another LTR case No.174/79/STP was registered between Thurram Rajulu and Kalakota Appa Rao i.e. father of Revision Petitioner herein. The Special Deputy Collector (TW), Palvancha had passed orders on 24.3.1982 dropping further proceedings on the point of resjudicata in view of orders previously passed in case No.1072/74 on 12.12.1975.

4. On a petition filed by Sri Turram Mutyalu and others all residents of Parkalagandi village hamlet of Patwarigudem village dated 26.4.1994, another LTR case No.983/94/DPT was registered against father of the Revision Petitioner herein and the Special Deputy Collector (Tribal Welfare), Palvancha had disposed it on 1.5.1995 in the reference 3rd read above, making the following order:

- Both parties finally called on 3.1.1995. Petitioner called absent. On his behalf Sri Yedama Venkappa (petitioner daughter's son) present and stated that the suit land was not sold to the respondent by his grandfather and the respondent forcibly occupied the land. Respondent absent and on his behalf his son K.Subba Rao present and deposed that the suit land was purchased by his father in the year 1960 and the case was already decided in the year 1975 in favour of respondent – he filed Xerox copy of case No.1072/74, dated 12.12.1975. Perused the same. Further proceedings dropped on law of resjudicata.

5. Again on the petition of one Sri Turram Rajulu (tribal), another LTR case No.984/94/DPT was registered by the Special Deputy Collector (Tribal Welfare), Palvancha and it was disposed on 31.10.1998 by the said authority in the reference 4th read above, making the following order:

- Case was called on 22.10.94, 24.12.94, 03.01.95, 5.10.96, 17.10.97, 16.3.98 and finally on 6.4.98.
- Respondent was expired and his son Kalakota Subba Rao represented the case. He produced earlier order in LTR case No.1072/74, dated 12.12.75 passed by the Special Deputy Collector (Tribal Welfare), Palvancha wherein the case was decided in favour of the respondent in Sy.No.508 to an extent of acs.14.35 gts situated in Patwarigudem village.
- Since the case was already decided by then Special Deputy Collector (Tribal Welfare), Palvancha, the principle of resjudicata operates. Hence, further action was dropped.

6. Thus, all the four cases ended either in favour of father of Revision Petitioner or Revision Petitioner on 12.12.1975, 24.3.1982, 1.5.1995, and 31.10.1998 i.e. for 23 years.

7. One Podem Krishna R/o Tallamada, Dammapeta Mandal said to be illatom son-in-law of Turram Surappa had submitted a representation dated -nil- to the Agent to Government & District Collector, Khammam (endt. dated 6.12.1998 of Collector, Khammam) stating that:

- He was married to daughter of Turram Surappa (brother of Turram Rajulu) and came on ILLARIKAM to the house of Turram Surappa.

- During house search, he found copies of LTR case No.1072/74, dated 12.12.1975 and LTR case No.1050/74, dated 29.11.1975.
- Obtained certified copies of judgements and observed that his uncle Turram Rajulu was shown as dead and judgement was passed in favour of Kalakota Appa Rao and Damera Venkata Narasimha Rao respectively. His uncle was very much alive and having white ration card. The land involved in these two cases is acs.14.35 gts and acs.31.36 gts respectively.
- As per the judgement, the lands were said to have been purchased by the Respondents in 1961 itself by way of sada sale deed and that they had been enjoying the possession and paying land revenue etc.
- On perusal of pahani nakhals, the land was in possession of his uncle Turram Rajulu and change effected in the pahanies from 1970 onwards in favour of Respondents.
- The respondents had exploited illiteracy and ignorance of his uncle Turram Rajulu and got judgements in their favour.
- Hence, prayed to peruse the record material and pass such orders deemed fit and restore lands to the legal heirs of Turram Rajulu and protect rights of tribals over their lands.

8. The above representation was taken on file on 7.12.1998 as an Appeal against LTR case No.1072/74, dated 12.12.1975 and against Kalakota Subba Rao as Respondent and Podem Krishna as Appellant assigning Appeal number as CMA 74/98. The Agent to Government, Khammam had disposed the case on 27.7.1999, in the reference 5th read above, – gist of the order is as under:

- After perusing documents, delay was condoned on 7.12.1998 in IA No.101/98 due lower court orders not served on the pattedar.
- Sri K.L.Narasimha Rao, Advocate filed Vakalth for Respondent and also two IAs to review orders passed in IA No.101/98, dated 7.12.98 and to issue interim order directing appellant and revenue authorities not to interfere with the peaceful possession and enjoyment of the appeal schedule property.
- His uncle Turram Rajulu was shown as dead and orders passed in favour of Kalakota Appa Rao and Damera Venkata Narasimha Rao in LTR case Nos.1072/74, dated 12.12.1975 and case No.1050/74, dated 29.11.75. His uncle was alive and having white ration card since 1991.
- Respondent argued that one Turram Rajulu was pattedar of schedule land to an extent of acs.14.30 gts in Sy.No.508 of patwarigudem village and he died long back issueless. Turram Rajulu, Turram Kotappa and Turram Bodaiah are brothers and lived jointly together. Turram Kotappa having two male children by name Rajulu and Surappa. Turram Bodaiah was issueless. Turram Rajulu S/o Kotappa having two male children namely Mutyalu and Rajulu. Turram Surappa having one daughter by name Durgamma. The Appellant is husband of Durgamma.
- Respondent's father Kalkota Appa Rao during his life time purchased appeal schedule property on 10.6.61 from Turram Rajulu and Turram Surappa sons of Turram Kotappa. He filed copies of sada sale agreement dated 10.6.61, copies of orders issued lower court in LTR case No.1072/74, 174/79/DPT, 984/94/DPT and 983/94/DPT.
- Verified pahanies of Patwarigudem for the year 1963-64 to 1975-76. Perused records produced by Respondent and heard both sides.
- Sada Sale Deed alone not sufficient to prove title, respondent has to prove that consequent to the agreement, he has the title by way of possession.

- Pahanies clearly show that name of Turram Rajulu remained the same as pattedar from 1962-63 to till date. Respondent's name was later interpolated in cultivation column as can be clearly seen from the year 1967-68 and is clearly a forgery.
- This clearly indicates that Respondent came into possession only after 1.12.1963 i.e. when LTR 1/59 came into force since the record of 1963-64 is crucial.
- Appeal allowed. The land shall be taken into possession by Mandal Revenue Officer and hand over to the legal heirs of Pattedars.

9. Aggrieved by the orders of the Agent to Government, Khammam in I.A.No.101/98, dated 7.12.1998 and in CMA No.74/98, dated 27.7.1999, in the reference 6th read above, the Revision Petitioner Sri Kalakoti Subba Rao S/o Appa Rao R/o Patwarigudem village, Dammmapeta Mandal, Khammam District (now in Bhadravati Kothagudem District) has filed the present the present Revision Petition before the Government on 29.12.2003 – gist of which is as under:

- i) One Turram Marappa had three sons namely Turram Dharmadu, Turram Rajulu and Turram Katappa. During the life time of Turram Rajulu S/o Marappa, he acquired the petition schedule lands in Sy.No.508 admeasuring acs.14.35 gts in Patwarigudem village and got pattas in his name. Both Turram Rajulu and his eldest brother Turram Dharmadu were died issue-less. Sri Turram Katappa had two sons namely Turram Surappa and Turram Rajulu. After the demise of original pattedar Sri Turram Rajulu S/o Marappa, the entire petition schedule property was inherited to Turram Rajulu and Turram Surappa i.e. sons of Turram Katappa. Turram Surappa got one daughter namely Durgamma and she was married to one Podem Krishna S/o Papa Rao R/o Tallamada village of Dammmapeta Mandal (4th respondent herein).
- ii) Father of Revision Petitioner viz., Sri Kalakoti Appa Rao had purchased the lands admeasuring acs.14.35 gts in Sy.No.508 of Patwarigudem belonging to Turram Rajulu and Turram Surappa i.e. sons of Turram Kotappa (which was originally belonged to Turram Rajulu S/o Marappa) in the year 1961 itself. Since then the petitioner and his father were in peaceful possession and enjoyment by developing these barren lands (in 1961) and paying land revenue regularly to Government.
- iii) The Regulation I of 1959 was extended to Telangana Area with effect from 1.12.1963. In the present case, his father purchased these lands on 10.6.1961 and as such the Regulation I of 1959 as amended by Regulation 1/70 will not hit the transaction under any provision of the Regulation.
- iv) Turram Surappa S/o Kotappa filed a petition before the Special Deputy Collector (Tribal Welfare) Paloncha as representative of Turram Rajulu S/o Marappa (died) who was original pattedar and who died long back even before the sale was affected. The Special Deputy Collector (Tribal Welfare) Paloncha numbered the case as 1072/74 and issued notices to the revision petitioner and the petitioner therein. The petitioner submits that one of the executants Turram Surappa deposed before the authority that he and his brother sold the petition schedule land 15 years ago and possession was also delivered to the petitioner long back. Also Patwari of the village (scribe of the document) stated that the sale took place in the year 1961 and land revenue receipts were issued for all the years. After thorough enquiry, the Special Deputy Collector (Tribal Welfare), Paloncha dismissed the said case on 12.12.1975 on the ground that the transfer of land took place in the year 1961 and as such there is no need for any interference with the possession of the petitioner (respondent therein). Again Turram Rajulu S/o Kotappa who is brother of Turram Surappa filed another case No.174/79/STP before the Special Deputy Collector (Tribal Welfare) Paloncha and the same was dismissed on 24.3.82. Again the said Rajulu filed another case No.983/94/DPT on the file of the Special Deputy

Collector (Tribal Welfare) Paloncha and the same was dismissed on 1.5.95. Again the said Rajulu filed LTR case No.984/94/DPT before the Special Deputy Collector (Tribal Welfare) Paloncha and the same was dismissed on 31.10.1998. All these four cases ended in favour of the petitioner for the very same lands purchased by his father in the year 1961.

- v) To the shock and surprise of the petitioner, the Agent to Government, Khammam (1st respondent herein) issued a notice in I.A.No.101/98 on 7.12.98 on an appeal filed by one Podem Krishna (4th respondent herein) against the order passed in LTR case No.1072/74 dated 12.12.75 i.e. after a lapse of 23 years. The said Podem Krishna i.e. 4th respondent herein has no locus standi to file appeal since he was not party to those proceedings nor he is the legal heir of the petitioner therein. The 1st respondent while issuing notice in I.A.No.101/98 stayed the lower court order passed in LTR case No.1072/74 dated 12.12.75 and also condoned the delay of 23 years in filing the said appeal by the said Podem Krishna. Except the said notice in I.A.No.101/98, the revision petitioner had not been served any copy of grounds of appeal or the petition to condone the delay. The 1st respondent straight-away condoned the delay of 23 years without giving any notice or opportunity to the revision petitioner which is highly illegal, arbitrary, unjust and contrary to the various judgements of the Apex Court as well as this Hon'ble Court.
- vi) Immediately, the petitioner filed IA in IA No.101/98 in CMA No.74/98 for reviewing the order passed in I.A.No.101/98 under Rule 54 of the Agency Rules. The petitioner filed a detailed affidavit along with the I.A. stating all the facts and circumstances to dismiss the I.A. without looking into the affidavit filed by the petitioner and without deciding the I.A. for reviewing the order passed by the 1st respondent, the 1st respondent passed orders allowing the main CMA No.74/98 itself on 27.7.99 and directed the 2nd respondent to take over possession from him and hand over to the legal heir of original pattedars.
- vii) The 1st respondent (the Agent to Government, Khammam) even without giving any notice or opportunity hurriedly passed an order in the main CMA 74/98 dated 27.7.99. The 1st respondent had not given any notice or opportunity before condoning the delay of 23 years. Even in the main appeal, he had not given any notice fixing the date of further hearing. In fact, the matter was posted on 26.2.99 for arguments in I.A. and again it was adjourned to 5.2.99, 12.2.99. On 12.2.99 the arguments were advanced by both the parties. On 12.3.99, the 1st respondent informed that the original records awaited and informed the petitioner that further date of hearing on ITDA will be intimated after receipt of the records from the 3rd respondent (Mandal Revenue Officer, Dammapeta). But surprisingly, the 1st respondent without giving any notice had passed orders in the main CMA on 27.7.99 without deciding the I.A.
- viii) The 1st Respondent (the Agent to Government, Khammam) had no material to interfere with the order passed by the Special Deputy Collector (Tribal Welfare) Paloncha dated 12.12.1975. The original Pattedar is Turram Rajulu S/o Marappa who is paternal uncle of Turram Rajulu S/o Katappa. The original pattedar was died long prior to the sale of the land. Even otherwise, it will not affect rights of the petitioner since the lands were purchased in the year 1961 it self. The order passed in case No.1072/74 amply demonstrates that both the parties attended before the 2nd respondent i.e. Special Deputy Collector (Tribal Welfare) and deposed and the order reveals that after hearing both parties passed orders and it is not behind back of the petitioner therein. The 1st respondent went wrong in saying that the sada sale deed can't be stand on evidence and it has to be supported by other evidence. The 1st respondent totally ignored the ample evidence filed by the petitioner in C.M.A. including the cist receipts from 1962 onwards. His father also filed declaration and the Land

Reforms Tribunal No.II, Khammam in LCC No.1838/STP dated 3.9.74 issued orders including these lands as standard holding of the petitioner. If the petitioner is not in possession of the petition lands, there is no necessity for the authorities to issue the orders including these lands. The 1st respondent erroneously came to a conclusion that the petitioner came into possession only after 1.12.1963 which is baseless and he has not given any reason. Aggrieved by the orders passed by the 1st respondent, the petitioner filed WP 16373/99 and the Hon'ble High Court in WPMP No.20255/99 had ordered interim suspension and the WP was finally disposed on 18.11.2003 with a direction to file Revision before the Government as provided under the Regulation and status quo was granted pending Revision. The order passed by the 1st respondent allowing the appeal after a lapse of 23 years and on the basis of presumption and surmises ex-facie illegal, arbitrary, unjust and improper for the following other grounds:

- a) The order of the 1st respondent is contrary to law, weight of evidence and probabilities of the case.
- b) The 1st respondent failed to see that the land was purchased by the petitioner under a sale deed date: 10.6.1961 which is prior to A.P. Scheduled Area Land Transfer Regulation 1/59 came into force in Telangana Area with effect from 1.12.1963.
- c) The 1st respondent failed to see that the Regulation 1/1959 as amended by Regulation 1/70 will not attract the transaction which is prior to the Regulations came into force.
- d) The 1st respondent erred in passing the impugned order without any authority or jurisdiction.
- e) The 1st respondent failed to see that the cases filed by Turram family in case No.1072/74, case No.174/79/STP, case No.983/94/DPT, case No.984/94 DPT on the file of the court of Special Deputy Collector, Tribal Welfare, Paloncha were ended in favour of the petitioner.
- f) The 1st respondent erred in allowing I.A.No.101/98 and stayed the lower court order passed in LTR case No.1072/74 dated 12.12.1975 condoning the delay of 23 years in filing the appeal.
- g) The 1st respondent ought not to have allowed the I.A.No.101/98 since the delay was not explained and that too without giving any notice or opportunity to the petitioner.
- h) The 4th respondent (Podem Krishna) has no locus standi to file the appeal since he was not a party to the earlier proceedings nor he is the legal heir of Turram Surappa who was the complainant in case No.1072/74.
- i) The 1st respondent without passing any order on the IA of petitioner herein in I.A.No.101/98 of CMA No.74/98 for reviewing the orders passed by the 1st respondent, straight-away passed orders in CMA No.74 of 98 on 27.7.1999.
- j) The 1st respondent erred in passing orders without hearing the main CMA and without deciding the application filed in I.A.No.101/98.
- k) The 1st respondent without there being any material on record or without basing any proposition of law in favour of the 4th respondent, allowed the appeal.
- l) The 1st respondent went wrong in saying that the pattedar was not aware of passing of the order which is ex-facio illegal in view of the orders passed in case No.1072/74 which clearly stated that both the parties attended the enquiry and deposed before the competent authority.

- m) The 1st respondent erred in coming to conclusion that the petitioner came into possession only after 1.12.1963 is baseless and he has not given any cogent reasons to come to such conclusion.
- n) The finding of the 1st respondent that there is no other evidence by way of possession proved by the record etc., is not correct since the petitioner filed all the documents including sada sale deed dated 10.6.1961.
- o) The 1st respondent erred in saying that the sada sale deed cannot stand as evidence of title in view of Sec.3(1) of the Regulation which deals with only transfer of immovable property but not the validity of the document.
- p) The 2nd respondent ought not to have exercised the suo-moto powers to initiate proceedings against the petitioner after the lapse of 13 years on which the impugned orders are passed. Exercise of suo-moto powers after a lapse of reasonable time would be arbitrary and contrary to the principles of rule of law enshrined in the Constitution and exercising such a suo-moto power after long gap would be ipso facto unreasonable. As such the order of the 2nd respondent itself was unreasonable after long lapse of time and the appellate authority passed orders without looked into the matter of this nature is arbitrary and liable to be set-aside.
- q) The 1st respondent failed to see that the 4th respondent without filing any legal representative petition filed the CMA. The 1st respondent without there being L.R. petition allowed the CMA contrary to the provision of C.P.C. and relevant provisions under the Regulations.
- r) The 1st respondent failed to see that the Regulations 1 of 59 as amended by the Regulation 1/70 are prospective in nature.
- s) The 1st respondent failed to see that no documentary evidence was filed on behalf of the 4th respondent to prove his case.
- t) The 1st respondent failed to see that the 3rd respondent issued declaration under section 13B confirming the sale and declaring the title that the petitioner is the absolute owner of the petition schedule land.
- u) The 1st respondent ought to have seen that the validity of the document cannot be decided under the regulations 1 of 59 as amended by the regulation 1 of 70 since section 3 deals with transfer of immovable property whether there is any prohibited transfer is effected or not.
- v) The action of the respondents in resorting to evict the petitioner from the lands on 3.8.89 without waiting for the limitation period of revision.

10. Therefore, the Revision Petitioner prayed the Government to set-aside orders passed by the 1st respondent (the Agent to Government, Khammam) in I.A.No.101/98, dated 7.12.1998 and CMA No.74/98 dated 27.7.1999 and consequently direct the respondents to restore possession of the lands to the petitioner in Sy.No.508 to an extent of acs.14.35 gts in Patwarigudem village of Dammapeta Mandal, Khammam District and pass such other order or orders as are deemed fit or proper in the circumstances of the case.

11. In the reference 7th read above, while sending a copy of the Revision Petition, the Agent to Government, Khammam has been requested to submit para-wise remarks along with connected record.

12. In the reference 8th read above, the Revision Petitioner has filed WP No.16373 of 1999 before the Hon'ble High Court and the Hon'ble High Court

has disposed the said WP on 18.11.2003 making the following order (operative part is extracted below):

"The Writ Petition is disposed of leaving it open to the petitioner to avail the remedy of revision. If the revision is presented within a period of four weeks from today, the same shall be received, as having been filed within the period of limitation. The Government shall pass appropriate orders on such revision, after putting the affected parties on notice, within a period of four months from the date of receipt of presentation of the revision. Pending adjudication of the revision by the Government, status quo obtaining as on today, as regards possession and nature of the land shall be maintained. It is however, made clear that in case the petitioner fails to present revision within the time stipulated by this court, the order directing status-quo shall become inoperative. No costs."

13. In the reference 9th read above, the District Collector, Khammam has submitted para-wise remarks and connected case record i.e. 4 case files of Special Deputy Collector (Tribal Welfare) Palvancha and CMA file No.74/98 of Agent to Government. The gist of para-wise remarks is as under:

- i) LTR case was initiated suo-motu by Special Deputy Collector (Tribal Welfare), Palvancha (presently hqrs at Bhadrachalam) between Thurram Rajulu and Kalakota Subba Rao against land in Sy.No.508 measuring acs.14.35 gts situated at Patwarigudem (V), Dammapeta (M). After due process, orders were passed in LTR case No.1072/74, dated 12.12.1975 stating that there is no need for any interference with the possession of the respondent over the suit land. Further, proceedings were also simply dropped on the law of resjudicata in the subsequent (3) LTR cases 1) 174/79/STP, dated 24.03.82, 2) 983/94/DPT, dated 01.05.1995 and 984/94/DPT, dated 31.10.1998 by the same authority since orders were passed by the said authority in case No.1072/74, dated 12.12.1975. Aggrieved by the said orders, one Podem Krishna (4th respondent herein) filed an Appeal before the Agent to Government, Khammam. The appeal was taken on file, numbered as CMA 74/98 and after hearing both sides, appeal was allowed on 27.7.1999 directing the Mandal Revenue Officer, Dammapeta to take possession of the suit land and hand over to legal heirs of the Pattedars.
- ii) Aggrieved by the said orders, the Revision Petitioner has filed Writ Petition before the Hon'ble High Court vide WP No.16373 of 1999 and the Hon'ble High Court has directed the Revision Petitioner to file Revision before the Government. Accordingly, the petitioner has filed the present Revision before the Government.
- iii) The contention of petitioner that he is in possession of land since 1961 is not correct. As per pahanies of Patwarigudem village, name of Turram Rajulu continued as Pattedar from 1962-63 till date of order. Name of Revision Petitioner was interpolated in cultivator column, which clearly indicates that it is a forgery one and that the Revision Petitioner was not in possession since 1961.
- iv) It is a fact that the Special Deputy Collector (Tribal Welfare), Paloncha initiated LTR case No.1072/74 for the land in Sy.No.508, acs.14.35 gts, during the enquiry, father of petitioner filed sada sale deed dated 10.06.1961, LR receipts from 1962-63 to 1968-69 issued in pattadar pass book and for remaining years recorded in the Land Revenue pass book, and also got recorded statements of respondent, village patwari and also one of the executants of the sale agreement namely Turram Surappa. In the lower court, tribals have given sworn statement that they have sold the schedule land. The Special Deputy Collector (Tribal Welfare), Paloncha passed orders on 12.12.1975 dismissing the petition.
- v) It is a fact that 4th respondent i.e. Podem Krishna had filed an appeal before the Agent to Government, Khammam but not correct to say

that it was allowed without going into the merits of the case. As per documents produced in this court by the appellant i.e. Podem Krishna in CMA 74/98 (i.e. copies of pahanies for the years 1961-62, 1962-63, 1969-70, 1990-91 and 1991-92) the name of Turram Rajulu is in pattedar column. The name of revision petitioner herein i.e. Kalakota Appa Rao was entered in occupant's column from the year 1990-91.

- vi) Sri Podem Krishna had filed appeal vide CMA No.74/98 along with delay condonation petition. Accordingly, delay was condoned to notices were issued to both parties and case posted for arguments on protect interests of the tribal in IA No.101/98 dated 7.12.1998 against which no appeal was preferred. Appeal was numbered and 22.01.1999, 05.02.1999 and 12.02.1999. Both parties were present on 12.2.1999 and after hearing the arguments case was posted to 26.2.1999 to verify original documents i.e. pahanies. On verification of pahanies, it was found that name of Turram Rajulu continued as pattedar from 1962-63 to till date of order and name of revision petitioner was interpolated in cultivator column as it can be clearly seen from the year 1967-68 and is clearly forgery. This clearly indicates that the petitioner was not in possession of the land as on 01.12.1963, i.e. LTR 1/59 R/W II of 1963 came into force. Revision Petitioner herein failed to produce any documents in support of his claim right over the property during the course of enquiry. Further, Tribal had produced documents and revenue records supported the same.
- vii) Respondent herein through his counsel filed two IAs before the 1st respondent to review orders passed in IA No.101/98, dated 7.12.1998 and to issue interim order directing the 4th Respondent herein and revenue authorities not to interfere with the peaceful possession and enjoyment of the suit land. Case was posted for arguments and on 26.2.1999 on verification of pahanies of Patwarigudem village and documentary evidence produced by the tribal petitioner, the appeal filed by Tribal was allowed and orders were passed in accordance with law and facts on record. Further, directed the Mandal Revenue Officer, Dammmapeta to hand over possession of the land to legal heirs of the Tribal pattadar.
- viii) It is not correct to say that the 1st respondent herein did not issue notice or opportunity and hurriedly passed an order in the CMA 74/98 on 27.7.1999. The revision petitioner herein has filed two IAs through his counsel on which case was posted for arguments on 22.1.1999, 5.2.1999 and 12.2.1999 and also on 26.2.1999 for verification of original pahanies. After perusing documents filed by the 4th respondent herein, delay was condoned on 7.12.1999 in IA No.101/98 as it was clearly seen that orders of the lower court were not served on the pattadar. On verification of original pahanies only 1st respondent herein passed orders in CMA 74/98 on 27.7.1999.
- ix) On verification of Pahanies for the years 1961-62, 1962-63, 196970, 1990-91 and 1991-92 shows that Sri Turram Rajulu name is found in pattadar column and name of revision petitioner was interpolated in cultivation column from the year 1968-68, which is clearly a forgery and tampering revenue records to overcome from the clutches of the Regulation. The tampered records have no value in the eye of law. The sada sale deed not duly stamped and registered cannot be admitted as evidence as observed by the Hon'ble High Court in CRP No.1087/96, dated 10.8.1998 in the case of Bangaru Rama Tulasamma V/s Yada Mastan Reddy. Alleged copy of sale deed is not admissible and it has no value in the eye of law. Hence, 1st respondent herein has allowed the Appeal filed by the 4th respondent herein.

- x) Regulation 1/59 is a special law which over-rides all other regulations. Issuance of PPB basing on the alleged sale agreement is not valid and binding on this court. The Mandal Revenue Officer, Dammapeta has issued 13 (b) certificate under ROR Act, is not correct as he has to see the suit land is not hit by the Regulation 1/59. Without verifying the records, the Mandal Revenue Officer, Dammapeta has issued 13 (b).
- xi) Regulation 1 of 1959 prohibits all transactions between tribal and non-tribal and revision petitioner to overcome the Regulation 1 of 1959 created sale agreement, is not valid and has no value in the eye of law.

14. In the reference 10th read above, case called for hearing on the following dates:

16.08.2007	.. Adjourned.
31.08.2007	.. Both parties called absent. Posted to 17.09.2007.
17.09.2007	.. Petitioner and his counsel present. Counsel prayed for time for submission of written arguments.
21.09.2007	.. Counsel for Petitioner submitted written arguments. Adjourned with direction to both parties to submit documentary evidence. Tahsildar, Dammapet Mandal to attend with pahanies pertaining to the period 1961 to 1968.
27.03.2008	.. Adjourned.
24.06.2010	.. Petitioner and his counsel called absent. V.Nagamohan Rao, MRI Dammapeta (M) present and submitted xerox copies for the years 1964-65, 1965-66, 1966-67 and 1967-68 of Patwarigudem village. Adjourned.
15.07.2017	.. Adjourned
17.03.2018	.. Adjourned
05.05.2018	.. Adjourned
18.08.2018	.. Adjourned
29.09.2018	.. Adjourned
07.12.2019	.. Petitioner called present. Prayed for two months' time for submission of additional written arguments. Permission granted.
30.01.2020	.. Petitioner filed additional written arguments.

15. In the reference 11th read above, the Counsel for Revision Petitioner has filed written arguments also reiterating some of the grounds urged in the Revision Petition. The gist is as follows:

- i) The land was purchased by father of the revision petitioner under a sale deed dated 10.6.1961 which is prior to the Regulation 1/59 came into effect to Telangana Areas w.e.f. 1.12.1963. Therefore, the Regulation 1/59 as amended by Regulation 1/70 will not attract the transaction as it is prior to the Regulations came into force. The Hon'ble Supreme Court and the Hon'ble High Court of AP Hyderabad held in number of occasions that the Regulation 1 of 59 as amended by Regulation 1 of 70 operates prospectively and does not adversely affect the completed transactions of transfer which have taken place prior to enforcement of the Regulations. Such past transactions remained untouched by the sweep of the aforesaid subsequently enacted Regulations (AIR 1996 SC 224; AIR 1982 AP 1 (FB); 2000 (5) ALD 588).
- ii) Even the sada sale deed can stand as evidence of title. Section 3 (1) of the Regulation deals with only transfer of immovable property but

(Contd...11)

not the validity of the document. The validity of the document cannot be decided under the Regulations 1 of 59 as amended by the Regulation 1 of 70 since section 3 deals with transfer of immovable property and whether there is any prohibited transfer is effected or not. The scope of Section 3 is limited whether there is any prohibitory transfer but not to decide validity of the title deed. The authorities under Section 3 (2) (a) of the Regulation are not conferred special or exclusive jurisdiction to determine the limited question whether the transfer of immovable property situated in the agency tracts is made in contravention of the provisions of Section 3 (1) of the Regulations and any other question is outside the scope of such a proceeding under Section 3(2) (a) of the Regulations. In this view, it is not open to the authorities under Section 3(2)(a) to go into question whether the sale or agreement to sell is registered or not. (2000 (5) ALD 588; AIR 1982 AP 1 (DB) paras 30 & 31; 1999 (6) ALD 718 Pars 17 & 33).

16. In the reference 12th read above, the Revision Petitioner Sri Kalakoti Subba Rao S/o late Appa Rao has attended hearing before the Government on 7.12.2019 and submitted a representation stating that he has filed the present Revision Petition before the Government engaging services of Sri Badana Bhaskar Rao, Advocate at Hyderabad. Thereafter in the year 2004, he has been migrated to Tallapudi village and Mandal of West Godavari District due to which he was not aware of the Notices sent by the Government and not able to attend hearings. Further, due to bifurcation of the State and the High Court, his counsel Sri Badana Bhaskar Rao also facing difficulty to attend both the High Courts in Hyderabad and at Amaravati due to which he was also not able to attend hearings before the Government. About five days back, when he came to his relatives at Patwarigudem village, he came to know that the postal authorities had enquired about his presence in the village that there was a registered post letter from the Government and finding his absence in the village, the postal authorities returned it. On their intimation, he came to Hyderabad and attended hearing before the Government. He further stated that he has sufficient grounds to contest his case and intending to file additional written arguments – therefore, prayed to grant (2) months' time. Accordingly, time was granted.

17. In the reference 13th read above, the Revision Petitioner has filed additional written arguments – gist of which is as under:

- i) He filed the Revision before the Government aggrieved by the order of the Agent to Government, Khammam dated 27/7/1999 in CMA No.74/98 and the order in I.A.No.101/98 dated 7.12.1998 directing for restoration of the land to the legal heirs of pattadars and consequent panchanama dated 03-08-1999 covered under the letter dated 03-08-1999 in Rc.No.A/2482/99 of the Mandal Revenue Officer, Dammappet. The Government in exercise of the statutory quasi-judicial adjudicating powers has taken up cognizance of the above Revision Petitioner and accordingly taken up hearings.
- ii) The 1st Respondent (the Agent to Government, Khammam) had initiated the appeal proceedings on 7.12.1998 i.e. after expiry of about 21 years from the date of the impugned order of the 2nd respondent dated 12.12.1977 in LTR case No.1072/1974 upon the representation dated nil of a third party to the impugned order.
- iii) A bare perusal of the impugned order of the 1st Respondent dated 27.07.1999 in CMA No.74/1998 or the order dated 07.12.1998 issued in IA No.101/1998 or the docket entries not at all disclose that under what provision of the law enacted in the AP Scheduled Areas Land Transfer Regulation 1/1959 R/W 1/1970 empowers the 1st Respondent to exercise suo-motu appeal powers to sit over the decisions issued by the Agency Divisional Officer (s) or the prescribed officer (Land Transfer Tribunal) that too after a lapse or expiry of about 21 years.

- iv) There is no provision in the Regulation 1/59 R/W 1/70 which confirms or empower the 1st Respondent with any *suo-motu* appeal powers and more particularly irrespective of period of limitation that too for considering any application, petition or representation of a third party to the proceedings of the 2nd respondent as an appeal petition and to grant any orders at his whims and fancies without any notice to the parties to the proceedings.
- v) Section 3(2)(a) of the Regulation 1/1959 r/w 1/1970 empowers the Agent, the Agency Divisional Officer or any other prescribed officer with *suo-motu* powers to decree ejection of any person other than a person who is not member of scheduled tribe and found in possession of immovable property in scheduled area in contravention of Sec. 3(1) of regulation 1/1959.
- vi) The order of ejection passed by the Agent to the Government, Agency Divisional Officer or any other prescribed officer in exercise of powers under Sec.3(2)(a) of the Regulation either *suo motu* or upon a petition submitted by any person are appealable orders under Sec.3(3)(a) of the Regulation 1/1959.
- vii) Section 3(3)(a) of the Regulation 1/59 reads as "subject to such conditions as may be prescribed, the appeal against any decree or order under sub-section (2) shall lie within such time as may be prescribed –
 - (1) if the decree or order was passed by the Agent, to the State Government,
 - (2) if the decree or order was passed by the Agency Divisional Officer, to the Agent and
 - (3) if the decree or order was passed by any other officer to the Agency Divisional Officer or Agent, as may be prescribed.

Section 3 (3) (b) of the Regulation 1/1959 reads as under:

The appellate authority may entertain an appeal on sufficient cause being shown after the expiry of the time limit prescribed therefor.

According to Rule 8 (2) of the AP Scheduled Areas Land Transfer Regulation Rules, 1969, the appeal under sec. 3(3)(a) shall be preferred within a period of two months from the date of the decree or order appealed against.

- viii) The above narrated relevant provisions of the Regulation 1/1959 do not confirm any *suo-motu* appeal powers upon the 1st Respondent herein. Therefore, the very entertainment of CMA No.74/1998 and consequent issue of impugned order dated 27.07.1999 and consequent panchanama dated 03.08.1999 alleged to have conducted by the 3rd respondent herein and the delivery of possession of the schedule land to the legal heirs of original pattadars viz., respondents 5 to 9 herein are without jurisdiction and hence nullity. Therefore, the impugned order under revision is liable to be set aside and the possession of the schedule land is liable to be restored to the revision petitioner.
- ix) It is respectfully submitted to the kind notice of the Government to consider this case as live illustration of the arbitrary exercise and misuse of the powers by the Agent to Government and his subordinate machinery regarding the conduct of enquiries while adjudicating the appellate powers and consequent implementation of the orders.

x) Though the impugned order dated 27.7.1999 are revisable by the Government under Section 6 of the AP Scheduled Areas Land Transfer Regulation 1/1959 r/w 1/1970, the 1st and 3rd respondents herein, in a way of causing grave prejudice to the revision petitioner herein and with the political pressures conspired to deprive the revision petitioner from availing the opportunity to file revision under Sec. 6 of the Regulation 1/1959 and to get any stay order from the Government, arbitrarily and without any intimation or issue of notice as required under Rule 7 (4) of the Rules, conducted panchanama within seven (7) days from the date of the impugned order and in particular before communicating the impugned order dated 27-07-1999. thus the 1st respondent not only illegally and without jurisdiction initiated *suo motu* appeal powers but also passed impugned order and without communicating such order on the revision petitioner herein being aggrieved party, within seven days from the date of order got implemented the same through the 3rd respondent and thus forcibly and in utter disregard of the provisions of Article 300 of the Constitution of India high-handedly dispossessed the revision petitioner and put the respondents 5 to 9 into possession of the land of the revision petitioner who was in legitimate possession and enjoyment of the suit schedule property right even before the Regulation 1/59 and its amendment 1/70 came into force in Telangana Region. Therefore, the Respondents 1 & 3 herein are under legal duty and obligation to restore the possession to the Revision Petitioner irrespective of the merits and demerits of the case and in order to maintain the status quo with regard to the possession as was prevailed on the date of impugned order i.e., 27-07-1999 and on 03-08-1999 the date of illegal panchanama and consequent highhandedness and forcible dispossession of the revision petitioner from the schedule land, is illegal and inappreciable.

xi) The observations of the 1st respondent in the last four lines of para-2 of the 1st page of the impugned order dated 27-07-1999 in CMA No.74/1998 that "case posted for arguments on 22-01-99, 5-2-99 and 12-2-99. Case posted to verify the original records i.e., pahanies. Directed the Mandal Revenue Officer, Dammapet to send pahanies. Both parties have argued etc.," are not only false but also self-contradictory to the docket entries in the case records of CMA 74/1998 as maintained by the 1st Respondent.

xii) As per the docket entry maintained by the 1st Respondent in CMA No.74/1998 reveals that the CMA was entertained by condoning delay of about 21 years and further stay was granted against the impugned order dated 12-12-1975 in LTR case no.1072/1974, on 7-12-1998 without any notice to the revision petitioner. Further, as per docket entry dated 12-12-1998, the case posted on 08-01-1999 and issue notice to both the parties. Docket entry 08-01-1999 reveals that the revision petitioner herein engaged counsel and got filed two IAs to grant stay and review the order passed in IA No.101/98 dated 07-12-1998. The Agent to Government is otherwise busy. Case is adjourned to 22-01-99. The docket entry dated 22-01-99 reveals that due to Bar Association elections, the case is posted on 05-02-99. The docket entry dated 05-02-99 reveals that the Agent to Government is otherwise busy. Case is adjourned to 12-2-99. The docket entry dated 12-2-99 reveals that case called. App. Present. Resp. present. Heard both. Call on 26/2, obtain records from MRO. The docket entry dated 27-7 discloses that "Orders issued".

xiii) The docket entry dated 27-07-99 is contradictory to the impugned order dated 27-07-1999. The 1st respondent at the least failed to apply his mind judiciously to specify the result of the order even, whether appeal allowed or dismissed and mentioned only "Orders issued". It is further submitted that, when admittedly as per the docket entry dated 08-01-1999 when two IAs are pending for disposal as filed by the revision petitioner herein through his Counsel, there is no meaning in the docket order dated

12-2-99 mentioning as if the 1st respondent heard the appellant and the respondent in the absence of the Counsel of the revision petitioner herein and further on that date, the 1st respondent directed to obtain records from Mandal Revenue Officer, Dammmapeta, but there is no mention with regard to submission of any such records by the Mandal Revenue Officer. If so, on what date such records were furnished, why copies of such records not available in the case records and why the notes of such record verification is endorsed by the 1st respondent in the case records of CMA 74/1998. But the 1st respondent in the impugned order dated 27-07-1999 in para-2 of page-3 however mentioned as if he verified the pahanies of Patwarigudem for the year 1963-64 to 1975-76. Thus, it is clear that apart from the entertainment of Appeal illegally and without jurisdiction on a letter of third person, the 1st respondent also failed to conduct the adjudication judiciously and fairly. Therefore, the impugned order is liable to be set aside.

- xiv) The Hon'ble High Court in its decision dated 31-01-2012 in WP No.6640/2007 between Keesara Narayana Reddy & another Vs the Additional Agent to Government, Project Officer, ITDA Bhadracahalam held that the 1st respondent herein entertaining an Appeal *suo-motu* apart from being without any competency or authority, is also clearly an arbitrary exercise of such jurisdiction and accordingly granted the relief of writ of mandamus declaring the action of the 1st respondent in entertaining LTR appeal Nos.129 & 130 of 2005 *suo motu*, is without any power of authority under the AP Scheduled Areas Land Transfer Regulation 1/1959 as amended by Regulation 1/1970 and is, therefore, illegal and without jurisdiction.
- xv) With regard to the contentions of the 1st respondent in the parawise remarks dated nil submitted in the above revision, as if the 4th respondent has filed an appeal is totally false and a clear misguiding submission. In fact the 4th respondent is not at all a party to the impugned order of the 3rd respondent dated 12-12-1975 in LTR case No.1072/1974 and on the other hand he submitted a letter dated nil to the 1st respondent which was taken up as appeal *suo motu* by the 1st respondent without any authority and jurisdiction on 07-12-1998 and arbitrarily granted stay though the said letter was submitted after expiry of about 21 years, and illegally condoned the delay. Thus, the 1st respondent abused his powers as Agent to Government in so far as entertaining the CMA No.74/1998.
- xvi) The contention of the 1st respondent that the entries in the alleged pahanies which are admittedly in the custody of the 3rd respondent working under the direct control of the 1st respondent, if at all interpolated, he ought to have considered the statement of the grandson of the original pattadar viz., Turram Surappa given before the 3rd respondent admitting the sale and consequent delivery of possession in the year 1961 itself and further ought to have conducted enquiry by way of examining the boundary owners in order to know the commencement of the date of possession of the revision petitioner over the subject land and ought to have taken disciplinary and other criminal action against the 3rd respondent, but the 1st respondent instead of ascertaining the factual position as explained above, shifted the responsibility of maintaining records on the revision petitioner which contention will not cure the illegal entertainment of the appeal in CMA 74/1998 by the 1st respondent in the absence of any empowerment of such *suo-motu* appellate powers on him to sit over the decision of the 3rd respondent dated 12-12-1975 in LTR case No.1072/1974 that too after expiry of 21 years and continuous possession of the father of the revision petitioner w.e.f. 10-06-1961 which was in turn succeeded by the revision petitioner.

xvii) The contentions of the 1st respondent in his remarks to para-4 in page-2 as if the 4th respondent submitted certain pahanies for the years from 1961-62 etc., are absolutely false, since a bare perusal of said letter of 4th respondent discloses nothing about such filing, or the docket entries of the 1st respondent in CMA No.74/1998 discloses any such filing supporting said contentions of the 1st respondent. Therefore, there is no fairness on the part of the 1st respondent being an adjudicating authority at the least in submitting para wise remarks to the revisional authority i.e. Government.

xviii) The contentions of the 1st respondent in his remarks to para-5 in page-2 that after hearing the arguments on 12-2-99 the case was posted to 26-02-1999 to verify the pahanies and on verification of pahanies etc., it is submitted that there is no such docket entry at the least as maintained by the 1st respondent evidencing such receipt of pahanies and their verification by him. Therefore, these contentions of the 1st respondent in his remarks are also unsupported by any acceptable evidence.

xix) The contentions of the 1st respondent to para-6 of page-2 are contradictory to the contentions of the 1st respondent in his remarks to para-5 mentioned above; wherein he contended that he heard the arguments in the case, but here he mentioned that as if he heard the two IAs. In such circumstances, having heard the arguments in the two IAs, how can CMA No.74/1998 disposed is not spelled and further having taken the appeal on 07-12-1998 after expiry of 21 years from the date of passing of the impugned order dated 12-12-1975 by illegally exercising his powers in a grave abusive and prejudicial manner in the absence of suo motu appeal powers. The 1st respondent failed to spell the hurriedness in got the panchanama conducted through the 3rd respondent within seven days from the date of passing of the order dated 27-07-1999 which was neither served nor reached the Revision Petitioner and forcibly and highhandedly dispossessing the revision petitioner from possession of the subject land under the guise of panchanama dated 03-08-1999 which too was conducted without any notice to the revision petitioner. The 1st respondent even failed to narrate as to how an order can be executed without any notice to the revision petitioner in compliance of rule-7(4) of the AP Scheduled Areas Land Transfer Regulation Rules, 1969.

xx) In addition to the above arguments, it is most respectfully submitted details of the following cases decided by the Hon'ble High Court and the Hon'ble Supreme Court of India in a similar case, which facts on record may kindly be taken into consideration in the case of the Revision Petitioner also for fair adjudication in the light of the decisions.

i) One Sri Damera Venkata Narsimha Appa Rao S/o Surya Rao, a non-tribal resident of the same Patwarigudem village in Dammapeta Mandal of the erstwhile Khammam District and neighbouring land owner had filed WP No.9314 of 2007 before the Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad against 1) Government of AP represented by Secretary, Social Welfare (LTR-2) Department, Secretariat, Hyderabad 2) the Agent to Government (District Collector), Khammam, 3) the Special Deputy Collector, Tribal Welfare, Palwancha, Khammam District, 4) the Mandal Revenue Officer, Dammapeta Mandal, Khammam District and 5) Podem Krishna S/o Papa Rao, Tallamada village, Dammapeta Mandal, Khammam District (same 3rd party in this case) praying to issue a writ of Certiorari calling for the records relating to the order in the GO Ms.No.13, Social Welfare (LTR-2) Department, dated 15.3.2007 passed by the first respondent confirming the order passed by the second respondent vide order dated 27.7.1999 in CMA No.75/98 and quash the same and pass such other or orders. It may kindly be noted here that the CMA numbered 75/98 (i.e. next to the CMA 74/98 of the revision petitioner) and disposed on the same lines on the same day i.e. 27.7.1999.

The Hon'ble High Court had disposed the above WP 9314 of 2007 on 21.11.2008 in favour of the Writ Petitioner Sri D.V. Narsimha Rao (non-tribal) – operative portion of which is as follows:

"5. Learned counsel appearing for the petitioner submits that entertaining the appeal at the instance of the 5th respondent, who claims to be the son-in-law of Turram Rajulu is illegal and improper. He further submits that proceedings initiated against the petitioner for ejectment in LTR case No.1050 of 1974 ended in dismissal on full dressed trial and the aggrieved party therein did not choose to assail the same and therefore, it reached the finality. A further submission has been made that the attempts made by some of the family members of Turram Rajulu proved to be futile by the dismissal of LTR case No.172/STP/79 on 24.03.1982 and the dismissal/dropping of LTR case No.985/94/DPT on 16.01.1995. He would also contend that the revenue authorities after due enquiry granted pattedar pass book in the name of the petitioner in respect of the lands in dispute and therefore, initiation of the proceedings against the petitioner under the provisions of the A.P.Scheduled Areas Land Transfer Regulation 1959, as amended by Regulation 1 of 1970 at the instance of the 5th respondent is wholly unsustainable, in support of his submission, reliance has been placed on the following decisions of this Court:

- 1) Mallina Venkatrao v. District Collector, WG Dist.Eluru.
- 2) Spl.Dy.Collector (TW) v. Datla Venkaphathi Raju
- 3) C.Ramalinga Raju v. District Collector, Eluru, W.G.Dist.

6. Learned Government Pleader for Social Welfare appearing for the respondents 1 to 4 submits that the principle of res judicata is not applicable in respect of the proceedings initiated under the provisions of the A.P.Scheduled Areas Land Transfer Regulation, 1959, as amended by Regulation 1 of 1970 and in which case the authorities are justified in initiating the proceedings against the petitioner on the representation of the 5th respondent. He would also contend that the dismissal of LTR case No.1050 of 1974 is based on a document which is inadmissible in evidence and therefore, any finding recorded therein does not come in the way of the Agent to the Government-2nd respondent in entertaining the appeal at the instance of the 5th respondent. He laid much stress that the primary authority in LTR case No.1050 of 1974 did not appreciate the material brought on record and thereby erred in dismissing the case and the said dismissal order came to be set aside by the appellate authority by giving cogent and convincing reasons and further the order of the appellate authority came to be confirmed by the revisional authority and therefore, the writ petition is devoid of merits and the same is liable to be dismissed. In support of his submissions, reliance has been placed on the following decisions:

- 1) Bangaru Ramathulasamma v. Yedem Masthan Reddy & Ors.
- 2) N.Durga Rao v. Spl.Dy.Collector (TW), Kota Ramachandrapuram, WG Dated & Ors
- 3) Vanka Venkanna v. Spl.Dy. Collector-TW Paloncha.
- 4) Amrendera Pratap Singh v. Tej Bahadur Prajatp & Ors.
- 5) M.Pocham v. Agent, State Govt. Adilabad
- 6) Vaddi Veeraiah v. Agent to Govt. Khammam
- 7) Vemana Somalamma v. Deputy Collector-TW Rampachodavaram, EG Dist.

7. There is no dispute with regard to the proposition of law laid down in N.Durga Rao's case (5 supra) that the orders passed in the proceedings initiated under the Regulations should not be treated as res judicata in subsequent proceedings, if the latter were initiated by a different party, or by the same party, on the basis of any further material. When the proceedings were initiated against the petitioner at the instance of Turram Surappa by the Special Deputy Collector (TW), Paloncha-3rd respondent in the year 1974, the petitioner took the specific stand that he purchased the property from Turram Surappa. The said Surappa attended before the Special Deputy Collector (TW), Paloncha-3rd respondent and admitted of the sale in the year 1963. Recording the statement of Surappa, the Special Deputy Collector (TW), Paloncha-3rd respondent dismissed the petition. The 5th respondent claiming to be the son-in-law of Surappa initiated the proceedings afresh. There is no fresh material placed on record. In that view of the matter, the primary authority committed grave error in ignoring the earlier order passed in case No.1050 of 1974. The appellate authority and the revisional authority also committed the same mistake in not considering the order passed in case No.1050 of 1974. In the absence of any fresh material, the proceedings initiated by the 5th respondent are wholly unjustified. Therefore, the order passed by the primary authority as confirmed by the appellate authority and the revisional authority is hereby quashed.

8. Accordingly, the Writ Petition is allowed. If the petitioner is disposed by virtue of the order passed by the primary authority, he is at liberty to make an application to the primary authority for redelivery of the possession of the property to him. No costs."

ii) Aggrieved by the above judgement, Sri Podem Krishna S/o Papa Rao (tribal) had preferred Writ Appeal No.307 of 2009 before the Division Bench of the Hon'ble High Court against the Respondents viz., 1) Damera Venkata Narsimha Appa Rao S/o Surya Rao, R/o Patwarigudem, Dammapeta Mandal, Khammam District 2) the Government of Andhra Pradesh rep. by Secretary, Social Welfare (LTR-2) Department, Secretariat, Hyderabad3) the Agent to Government (District Collector), Khammam, 4) the Special Deputy Collector, Tribal Welfare, Palwancha, Khammam District and 5) the Mandal Revenue officer, Dammapeta Mandal, Khammam District. The said Writ Appeal was disposed on 13.3.2009 in favour of the non-tribal respondent Sri Damera Venkata Narsimha Rao - operative portion of which is as follows:

"Twenty-three years down the line, the appellant, who claims to be the illitam son-in-law of one Turram Surappa, whose complaint ended in dismissal as far back as 29.11.1975, approached respondent No.3 with a purported appeal against the said order dated 29.11.1975. Respondent No.3 readily entertains the appeal, condones the huge delay and resumes the land, which was admittedly purchased by respondent No.1 from the father-in-law of the appellant way back in the year 1961. Respondent No.1 having been unsuccessful in his revision filed before respondent No.2, filed Writ Petition No.9314 of 2007 which was allowed by the learned Single Judge. Assailing the said order, respondent No.5 in the writ petition filed the present appeal.

At the hearing, Sri V.Venugopala Rao, learned counsel for the appellant submitted that the premise on which the learned Single Judge allowed the writ petition was incorrect inasmuch

as the learned Single Judge was of the view that the appellant has filed a fresh complaint regarding holding of the property in dispute by respondent No.1. The learned counsel says that the appellant has in fact filed an appeal and not a complaint. Even assuming that the writ petition was disposed of on an incorrect premise, we are not inclined to interfere with the order passed by the learned Single Judge.

It is not in dispute that respondent No.1 purchased the property in dispute through a white paper transaction on 10.12.1961 from Sri Turram Surappa, a Scheduled Tribe, who admittedly, was the owner of the property. On recording the statement of the said Surappa that he sold the property to respondent No.1, the Special Deputy Collector, who initiated *suo motu* proceedings for resumption of land, dropped further proceedings by passing an order on 29.11.1975. A few years later, another person, by name Turram Rajulu approached the Special Deputy Collector, Paloncha and filed a complaint regarding violation of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 read with Regulation 1 of 1970 (for short 'the Regulation'). The said complaint having been enquired into was dismissed on 24.03.1982. One more attempt was made by another person, by name, Turram Muthyalu by filing yet another complaint in 1994. The said complaint also ended in its dismissal after due enquiry, on 16.01.1995. After successive dismissals of these complaints, the appellant surfaced in the scene for the first time and purported to have filed an appeal before respondent No.3 against order dated 29.11.1975. Though the learned counsel for the appellant sought to impress upon us that under the provisions of the Regulation, the doctrines of res judicata and laches have no application, we are of the view that there cannot be such an absolute proposition. The authorities having successively held that the transaction between Turram Surappa and respondent No.1 was a genuine one and did not violate the provisions of the Regulation, it will be nothing but an abuse of process of law, if an appeal was entertained and allowed by the appellate authority after more than two decades ignoring the fact that the original owner who sold the property himself has given a statement before the primary authority that he sold the property. Another fact, which is not in dispute, is that the sale through a white paper was subsequently regularized by the competent authority and respondent No.1 was given pattadar pass book.

Having carefully considered the matter in its entirety, we are of the view that the order of the learned Single Judge is not liable to be interfered with.

The writ appeal is accordingly, dismissed."

iii) Aggrieved by the above two orders of the Hon'ble High Court, Sri Podem Krishna (tribal) had filed Civil Appeal No.35/2011 before the Hon'ble Supreme Court of India against the respondents Sri Damera Venkata Narsimha Appa Rao (dead) by LRs & others and it was disposed on 16.1.2020 making the following order:

"The judgement dated 13th March, 2009 passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in Writ Appeal No.307 of 2009 confirming the order dated 21.11.2008 passed in Writ Petition No.9314 of 2007 is called in question in this appeal.

(Contd...19)

Records reveal that the respondent no.1 purchased the property in question through a sale deed dated 10.12.1961 from Turram Surappa, a scheduled tribe who owned the said property. Subsequently on a complaint lodged by the said Turram Surappa before the Special Deputy Collector, suo motu proceedings were initiated for the resumption of the land, by the Special Deputy Collector. After holding enquiry, the proceedings were dropped by order dated 29.11.1975. After few years, another person by name Turram Rajulu approached the Special Deputy Collector for the very same relief as mentioned supra. The said complaint, after enquiry, was dismissed on 24.03.1982. Similar attempt was also made by another person, namely, Turram Muthyalu by filing another complaint in 1994 which also came to be dismissed on 16.01.1995.

When the facts stood thus, the appellant herein claiming to be a illatom son-in-law of the original owner Turram Surappa filed appeal after about 23 years before the third respondent against the original order dated 29.11.1975. However, such an appeal was entertained and allowed by the appellate authority. Such order passed by the appellate authority was set aside by the learned single Judge of the High Court in Writ Petition No.9314 of 2007. The order passed in the Writ Petition came to be confirmed by the Division Bench of the High Court through the impugned order.

Admittedly, the sale deed was of the year 1961. As on that date, there was no prohibition under any of the enactments for selling property in question by a person belonging to scheduled tribe in State of Andhra Pradesh. The point involved is fully covered by the dictum laid down by the Full Bench of the High Court of Andhra Pradesh in the case of Gaddam Narsa Reddy & Ors. V. Collector, Adilabad District & Ors., AIR 1982 AP 1.

Since there was no prohibition for sale and purchase of the property belonging to the person coming from Scheduled Tribe as on the date of the sale deed in question in the State of Andhra Pradesh, the High Court has rightly negatived the prayer for resumption made by the appellant. Moreover, it is a clear case of abuse of the process of law inasmuch as the appellant had approached the appellate authority after 23 years, though there was no valid document in his favour to show his locus standi.

The appeal stands dismissed accordingly.

The respondent no.1 is entitled to possession and, therefore, the State is directed to deliver possession of the land in question in favour of respondent no.1."

iv) In compliance to the judgement of the Hon'ble Apex Court in the above Civil Appeal No.35/2011, dated 16.1.2020 – the concerned revenue authorities i.e. Mandal Girdawar-I, Dammapeta (as per directions of Mandal Revenue Officer, Dammapeta in Memo.No.B/3763/2009, dated 10.2.2020) have conducted panchanama on 6.3.2020 and handed over land total admeasuring to acs.31.36 gts situated in Sy.Nos.416 (acs.18.32 gts) and Sy.No.417 (acs.13.04 gts) to the non-tribals viz., 1) Jupalli Sarada Devi D/o Venakta Narsimha Appal Rao from the possession of the tribals viz., 1) Podiam Durgamma W/o Krishna, 2) Podiam Krishna and 3) Turram Mutyalu – a copy of the panchanama dated 6.3.2020 in pages 3 is submitted herewith for favour of kind perusal and consideration.

(Contd...20)

xxi) Hence, in view of the grounds urged in the Revision Petition, arguments through Written Arguments and the contentions now made in the additional written arguments and in the light of the above judgements delivered by the Hon'ble High Court of Andhra Pradesh and the Hon'ble Supreme Court in the similar case and consequent panchanama dated 6.3.2020, it is most humbly prayed the Government to allow the Revision Petition filed by the Petitioner and set aside the impugned order dated 27.07.1999 in CMA No.74/1998 issued by the Agent to Government, Khammam with directions to the Tahsildar, Dammapeta to restore possession of the schedule land to the Revision Petitioner from Turram Rajulu S/o Kotappa, Turram Surappa S/o Kotappa, legal heirs of the Tribal Pattedar i.e. Turram Rajulu or any of their legal heirs put in possession by the Mandal Revenue Officer, Dammapeta vide panchanama dated 3.8.1999 conducted by the MRI-2, Dammapeta, Village Assistant, Patwarigudem, Mandal Surveyor, Dammapeta (before Mandal Revenue Officer, Dammapeta), in the interests of justice and equity.

18. Along with the additional written arguments, the Revision Petitioner Sri Kalakoti Subba Rao has filed copies of the following documents:

- i) Sale agreement dated 10.6.1961 executed by Turram Rajulu and Turram Surappa sons of Turram Katappa R/o Parkalagandi H/o Pottavarigudem in favour of Kalakoti Appa Rao (father of Revision Petitioner) recitals state that they are selling land of acs.14.35 gts stood patta in the name of Rajulu, their paternal uncle (i.e. elder brother of their father) in Sy.No.508 for Rs.350/- to Sri Kalakoti Appa Rao situated within the following boundaries:

East :	Land of Kondru Chinna Rajulu
North :	Village
West :	Karam Darappa kunta
South:	Land of Kondru Dharmadu
- ii) Copies of LTR judgements dated 12.12.1975, 24.3.1982, 1.5.1995 and 31.10.1998.
- iii) Copy of Affidavit filed in IA No.1-01/1998 in CMA 74/1998 filed before the Agent to Government, Khammam praying to review orders passed in IA No.101/98, dated 7.12.1998 and permit the petitioner to file his counter and hear arguments in the IA 101/98. Some of the contents are extracted below.
 - After the death of Turram Rajulu, his brothers Turram Kotappa, Turram Bodaiah in the capacity of legal heirs came into possession and enjoyment of his entire property including the appeal schedule property and still the said Turram Rajulu and Surappa are alive.
 - As per Pedigree of Turram Rajlu and his brothers:
 - Turram Rajulu (original pattedar), Turram Kotappa and Turram Bodaiah (no issues) are brothers.
 - Turram Kotappa has two sons namely Turram Rajulu and Turram Surappa.
 - Turram Rajulu S/o Kotappa has two sons namely Turram Mutyalu and Turram Rajulu.
 - Turram Surappa has only one daughter namely Durgamma W/o Podem Krishna (appellant in CMA).
 - The Revenue authorities also issued pattedar pass book in the year 1975 in favour of his father for the appeal schedule property and in the year 1975, when his father filed his declaration before the Land

Reforms Tribunal II, Khammam showing his property through a declaration, the appeal schedule property also shown by his father as it belongs to his family unit. The Tribunal also included the appeal schedule property in the holding of his late father.

- Either the Podem Krishna respondent herein or his wife Durgamma are no way concerned and not having any right or title over the appeal schedule property and also the respondent herein misrepresented that the agreement executed by Turram Rajulu S/o Kotappa and Surappa is fabricated document and alleged that the said document was created as the said Turram Rajulu died back, it is false representation made by the respondent herein, the seller of the property in favour of his father is now also alive who is son of Kotappa. The name of grandfather of seller Turram Rajulu and name of seller is same and one as taking undue advantage of the names the respondent herein misrepresented the Hon'ble court and got obtained stay orders.
- iv) Copy of 13-A Certificate bearing No.ROR/3740/96 Patwarigudem, dated 10.4.1997 issued by the Mandal Revenue Officer, Dammappa in favour of Sri Kalakoti Subba Rao S/o Kalakoti Appa Rao after collection of Stamp Duty for Rs.300/- in respect of lands in Sy.Nos.414, 415, 424 and present schedule property i.e. Sy.No.508 admeasuring a/cs.14.35 gts. The Sub-Registrar, Sathupalli has also attested in token of receipt of Stamp Duty of Rs.300/-.
- v) Proceedings of t4he Land Reforms Tribunal No.II, Khammam bearing CC No.1838/STP, dated 3.9.1976 – order issued in respect of lands held comprise of S.y.Nos.419, 4141, 415, 424, 372, 508 of Pottivarigudem (dry lands admeasuring a/cs.44.85 cents) issued by the Additional Revenue Divisional Officer, Tribunal II, Khammam in favour of Kalakoti Appa Rao S/o Subbaiah R/o Pottivarigudem, Sathupally Taluk.
- vi) Copy of LTR case No.1050/74, dated 29.11.1975 of Special Deputy Collector (TW), Palwancha (then presiding authority: Sri T.Purushotham, B.A. LL.B.,) parties – Turram Rajulu (died) represented by Surappa, Patwarigudem (Tribal Pattedar) and Damera Venakta Narsimha Appa Rao R/o Patwarigudem – Respondent – wherein the lower authority held that:
 - Both parties attended on 28.8.75. Respondent wanted time to produce documents. Respondent attended on 29.9.75 and produced sale deed written on plain paper, executed on 10.12.1961 for a consideration of Rs.1500/-. He produced LR receipts for 1962-63, printed receipts for 1963-64 to 1967-68 and pattedar pass book containing receipts for 1968-69 to 1971-72 and LR pass book for the subsequent years.
 - Tribal representative and legal heir Turram Surappa attended and deposed that the land was sold long back after the rajakar movement and there is now a mango tree on the lands raised by the respondent.
 - Patwari of the village corroborated the facts deposed by the tribal legal heir. The transfer of land took place prior to 1963. The petition is dismissed.
- vii) Judgement in WP No.9314/2007, dated 21.11.2008 of Hon'ble High Court of Judicature, Andhra Pradesh, Hyderabad – between Damera Venkata Narsimha Appa Rao S/o Surya Rao R/o Patwarigudem, Dammappa Mandal, Khammam District (Petitioner) and 1) Secretary (SW) (LTR-2) Department 2) Agent to Government (District Collector), Khammam, 3) Special Deputy Collector (Tribal Welfare), Palwancha, 4) Mandal Revenue Officer, Dammappa Mandal, Khammam District and 5) Podem Krishna S/o Papa Rao R/o Tallamada village,

Dammapeta Mandal, Khammam District – against CMA No.75/98, dated 27.7.1999 of Agent to Government and GO Ms.No.13, SW (LTR-2) Department of State Government.

Operative part of the judgement of the Hon'ble High Court is extracted below:

"7. There is no dispute with regard to the proposition of law laid down in N.Durga Rao's case (5 supra) that the orders passed in the proceedings initiated under the Regulations should not be treated as res judicata in subsequent proceedings, if the latter were initiated by a different party, or by the same party, on the basis of any further material. When the proceedings were initiated against the petitioner at the instance of Turram Surappa by the Special Deputy Collector (TW), Paloncha-3rd respondent in the year 1974, the petitioner took the specific stand that he purchased the property from Turram Surappa. The said Surappa attended before the Special Deputy Collector (TW), Paloncha-3rd respondent and admitted of the sale in the year 1963. Recording the statement of Surappa, the Special Deputy Collector (TW), Paloncha-3rd respondent dismissed the petition. The 5th respondent claiming to be the son-in-law of Surappa initiated the proceedings afresh. There is no fresh material placed on record. In that view of the matter, the primary authority committed grave error in ignoring the earlier order passed in Case No.1050 of 1974. The appellate authority and the revisional authority also committed the same mistake in not considering the order passed in Case No.1050 of 1974. In the absence of any fresh material, the proceedings initiated by the 5th respondent are wholly unjustified. Therefore, the order passed by the primary authority as confirmed by the appellate authority and the revisional authority is hereby quashed.

8. Accordingly, the Writ Petition is allowed. If the petitioner is dispossessed by virtue of the order passed by the primary authority, he is at liberty to make an application to the primary authority for redelivery of the possession of the property to him. No costs."

viii) Judgement in Writ Appeal No.307/2009, dated 13.3.2009 of the Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad – between Podem Krishna S/o Papa Rao R/o Tallamada village, Dammapeta Mandal, Khammam District (Appellant) and 1) Damera Venkata Narsimha Appa Rao 2) Secretary, Social Welfare (LTR-2) Department, 3) Agent to Government (District Collector), Khammam, 4) Special Deputy Collector, Tribal Welfare, Palwancha and 5) Mandal Revenue Officer, Dammapeta Mandal, Khammam District – against order dated 21.11.2008 in WP No.9314 of 2007 on the file of the High Court):

Operative part of judgement of the Division Bench of the Hon'ble High Court is extracted below:

"Twenty-three years down the line, the appellant who claims to be the illatam son-in-law of one Turram Surappa, whose complaint ended in dismissal as far back as 29.11.1975, approached respondent No.3 with a purported appeal against the said order dated 29.11.1975. Respondent No.3 readily entertains the appeal, condones the huge delay and resumes the land, which was admittedly purchased by respondent No.1 from the father-in-law of the appellant way back in the year 1961. Respondent No.1 having been unsuccessful in his revision filed before respondent No.2, filed Writ Petition No.9314 of 2007 which was allowed by the learned Single Judge. Assailing the said order, respondent No.5 in the writ petition filed the present appeal.

(Contd...23)

At the hearing, Sri V.Venugopala Rao, learned counsel for the appellant submitted that the premise on which the learned Single Judge allowed the writ petition was incorrect inasmuch as the learned Single Judge was of the view that the appellant has filed a fresh complaint regarding holding of the property in dispute by respondent No.1. The learned counsel says that the appellant has in fact filed an appeal and not a complaint. Even assuming that the writ petition was disposed of on an incorrect premise, we are not inclined to interfere with the order passed by the learned Single Judge.

It is not in dispute that respondent No.1 purchased the property in dispute through a white paper transaction on 10.12.1961 from Sri Turram Surappa, a Scheduled Tribe, who admittedly, was the owner of the property. On recording the statement of the said Surappa that he sold the property respondent No.1, the Special Deputy Collector, who initiated suo motu proceedings for resumption of land, dropped further proceedings by passing an order on 29.11.1975. A few years later, another person, by name, Turram Rajulu approached the Special Deputy Collector, Paloncha and filed a complaint regarding violation of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 read with Regulation 1 of 1970 (for short 'the Regulation'). The said complaint having been enquired into was dismissed on 24.03.1982. One more attempt was made by another person, by name, Turram Muthyalu by filing yet another complaint in 1994. The said complaint also ended in its dismissal after due enquiry, on 16.01.1995. After successive dismissals of these complaints, the appellant surfaced in the scene for the first time and purported to have filed an appeal before respondent No.3 against order dated 29.11.1975. Though the learned counsel for the appellant sought to impress upon us that under the provisions of the Regulation, the doctrines of res judicata and laches have no application, we are of the view that there cannot be such an absolute proposition. The authorities having successively held that the transaction between Turram Surappa and respondent No.1 was a genuine one and did not violate the provisions of the Regulation, it will be nothing but an abuse of process of law, if an appeal was entertained and allowed by the appellate authority after more than two decades ignoring the fact that the original who sold the property himself has given a statement before the primary authority that he sold the property. Another fact, which is not in dispute, is that the sale through a white paper, was subsequently regularized by the competent authority and respondent No.1 was given pattadar pass book.

Having carefully considered the matter in its entirety, we are of the view that the order of the learned Single Judge is not liable to be interfered with.

The writ appeal is accordingly, dismissed."

ix) Judgement of the Hon'ble Supreme Court of India in Civil Appeal No.35 of 2011, dated 16.1.2020 – between Podem Krishna (Appellant) versus Damera Venkata Narsimha Appa Rao (dead) by LRs & others – Respondents.

Order of the Hon'ble Apex Court is produced below:

"The judgement dated 13th March, 2009 passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in Writ Appeal No.307 of 2009 confirming the order dated 21.11.2008 passed in Writ Petition No.9314 of 2007 is called in question in this appeal.

(Contd...24)

Records reveal that the respondent no.1 purchased the property in question through a sale deed dated 10.12.1961 from Turram Surappa, a scheduled tribe who owned the said property. Subsequently on a complaint lodged by the said Turram Surappa before the Special Deputy Collector, suo motu proceedings were initiated for the resumption of the land, by the Special Deputy Collector. After holding enquiry, the proceedings were dropped by order dated 29.11.1975. After few years, another person by name Turram Rajulu approached the Special Deputy Collector for the very same relief as mentioned supra. The said complaint, after enquiry, was dismissed on 24.03.1982. Similar attempt was also made by another person, namely, Turram Muthyalu by filing another complaint in 1994 which also came to be dismissed on 16.01.1995.

When the facts stood thus, the appellant herein claiming to be a son-in-law of the original owner Turram Surappa filed appeal after about 23 years before the third respondent against the original order dated 29.11.1975. However, such an appeal was entertained and allowed by the appellate authority. Such order passed by the appellate authority was set aside by the learned single Judge of the High Court in Writ Petition No.9314 of 2007. The order passed in the Writ Petition came to be confirmed by the Division Bench of the High Court through the impugned order.

Admittedly, the sale deed was of the year 1961. As on that date, there was no prohibition under any of the enactments for selling property in question by a person belonging to scheduled tribe in State of Andhra Pradesh. The point involved is fully covered by the dictum laid down by the Full Bench of the High Court of Andhra Pradesh in the case of *Gaddam Narsaa Reddy & Ors. V. Collector, Adilabad District & Ors.*, AIR 1982 AP 1.

Since there was no prohibition for sale and purchase of the property belonging to the person coming from Scheduled Tribe as on the date of the sale deed in question in the State of Andhra Pradesh, the High Court has rightly negative the prayer for resumption made by the appellant. Moreover, it is a clear case of abuse of the process of law inasmuch as the appellant had approached the appellate authority after 23 years, though there was no valid document in his favour to show his locus standi.

The appeal stands dismissed accordingly.

The respondent no.1 is entitled to possession and, therefore, the State is directed to deliver possession of the land in question in favour of respondent no.1.”

x) Order of the Hon’ble Supreme Court of India in Civil Appeal No.35/2011, dated 16.1.2020 – between Podem Krishna (Appellant) Versus Damara Venkata Narsimha Appa Rao (Dead) by LRs & Ors – Respondents.

“UPON hearing the counsel the Court made the following ORDER:

The appeal stands dismissed in terms of the signed order.

The respondent No.1 is entitled to possession and, therefore, the State is directed to deliver possession of the land in question in favour of Respondent No.1.”

(Contd...25)

xi) Copy of Panchanama dated 06.03.2020 conducted by the Mandal Revenue Inspector-I, Dammapeta, Dy.Surveyor, Dammapeta and Village Revenue Officer, Patwarigudem as per directions of the Tahsildar, Dammapeta in Memo.No.B/3763/2009, dated 10.2.2020, the land admeasuring acs.18.32 gts in Sy.No.416, acs.13.04 gts in Sy.No.417 (total admeasuring acs.31.36 gts) along with 394 mango trees available on the land situated in Parkalagandi H/o Patwarigudem village, was handed over to Smt.Jupalli Sarada Devi, legal heir and daughter of Venkata Narasimha Rao on 6.3.2020 as per the judgement of the Hon'ble Supreme Court, New Delhi in Civil Appeal No.35/2011, dated 16.1.2020, in the presence of three panchas viz., 1) Kondru Bakkulu S/o Dharmulu, age: 66 years, R/o Parkalagandi, caste: Koya, occ: Agriculture, 2) Sunnam Nageswara Rao S/o Ramudu, age: 45 years, caste: Koya, occ: Agriculture R/o Chillagumpu and 3) Gaddam Ramulu S/o Singappa, age: 48 years, caste: ST Koya, occ: Agriculture R/o Parkalagandi and witnessed 1) V.Seshagiri Rao, 2) D.Rambabu, 3) K.Venkatesh and 4) K.Ramachandra Rao.

19. Upon perusal of the documentary evidences available on the record of all the four LTR cases held by the Special Deputy Collector (Tribal Welfare), Palwancha between the Tribal Petitioners Turram Surappa & others and the Non-tribal Respondent viz., Sri Kalakoti Appa Rao and after his death represented by his son Sri Kalakoti Subba Rao (Revision Petitioner herein); documentary evidences available on the record of the Agent to Government, Khammam in CMA No.74/98, dated 27.7.1999; grounds urged in the Revision Petition/written arguments/ additional written arguments submitted by the Revision Petitioner herein along with certain documentary evidences have been examined in detail besides placing heavy reliance on the judgements of the Hon'ble High Court in WP No.9314/2007, dated 21.11.2008, Writ Appeal No.307/2009, dated 13.3.2009 and of the Hon'ble Supreme Court of India in Civil Appeal No.35/2011, dated 16.1.2020 as the parties, facts and circumstances in the said cases are same, similarly and identically situated to the facts and circumstances in the present Revision Petition and that the Government being Revisional and quasi-judicial authority under the Statute is legally bound to examine, enquire and pass orders in accordance with the evidences, law and applying settled legal positions of the Hon'ble High Court and the Hon'ble Supreme Court wherever applicable as it is the settled principle of law that administrative bodies, quasi-judicial bodies while exercising powers conferred on them should give a reasoned and speaking order (AIR 1986 SC 2015) – the following findings are arrived at:

20. FINDINGS

i) Initially, suo-motu enquiry was taken up by the Special Deputy Collector (Tribal Welfare), Palwancha in LTR case No.1072/74 basing on the particulars furnished from the village records of Patwarigudem of erstwhile Sathupally in Dammapeta Mandal) in the erstwhile Khammam District (now in Bhadrak Kothagudem District) in respect of land admeasuring acs.14.35 gts in Sy.No.508; between the parties Thurram Rajulu (died) represented by Surappa, Patwarigudem (Tribal Pattedar) and Kalakota Appa Rao, Patwarigudem as Respondent.

ii) During the course of enquiry, the Special Deputy Collector (Tribal Welfare), Palwancha had conducted hearings and passed orders on 12.12.1975 that one of the executants of the sale agreement viz., Thurram Surappa deposed that he and his brother has sold the land 15 years ago for a consideration of Rs.450/- and possession of the land was also delivered to the respondent long back. The Patwari of the village who is scribe of the said sale agreement also stated that the sale took place in 1961 for which Land Revenue Receipts were issued

for all the years. Therefore, the Special Deputy Collector (Tribal Welfare), Palwancha concluded that there is no need for any interference with the possession of the non-tribal respondent over the suit lands.

- iii) Subsequently, three more LTR cases were lodged by the Tribal Petitioners viz., Turram Rajulu (174/STP/79 disposed on 24.3.1982); Turram Surappa, Turram Rajulu and Turram Mutyalu (983/94/DPT disposed on 1.5.1995); and Turram Rajulu (984/94/DPT disposed on 31.10.1998) against the same non-tribal respondent viz., Kalakoti Appa Rao and after his death represented by his son Kalakoti Subba Rao, the Revision Petitioner herein. All these three cases were dropped on the law of res judicata as the matter was already decided by the Special Deputy Collector (Tribal Welfare), Palwancha previously in LTR case No.1072/74, dated 12.12.1975. Thus, all the four LTR cases which were went on for (23) years before the Special Deputy Collector (Tribal Welfare) Palwancha ended in favour of the non-tribal respondent Sri Kalakoti Appa Rao/his son Kalakoti Subba Rao, Revision Petitioner herein.
- iv) After a long delay of (23) years, one Podem Krishna said to be illatom son-in-law of Turram Surappa had filed a representation before the Agent to Government against the Revision Petitioner herein and another non-tribal viz., Sri Damera Venkata Narasimha Appa Rao which was entertained as Appeals in CMA Nos.74/98 (against Revision Petitioner herein Kalakoti Subba Rao R/o Patwarigudem) and CMA 75/98 (against Damera Venkata Narsimha Rao R/o Patwarigudem) and disposed both the Appeals on the same day i.e. 27.7.1999.
- v) According to the procedure prescribed in the law under CPC 151, Sri Podem Krishna, the said illatom son-in-law at first step has to file an Application before the Agent to Government praying to grant leave to implead him as Legal Representative of the original pattedar and file Statutory Appeal under the Regulation. Once after the permission is accorded, the said illatom son-in-law Sri Podem Krishna has to file Statutory Appeal before the Appellate Authority. In the present case, the Agent to Government, Khammam has considered representation dated nil of Sri Podem Krishna, illatom son-in-law as an appeal, taken on file on 7.12.1997, condoned huge delay of 23 years, allowed the Appeal in CMA 74/98 on 27.7.1999, possession of land handed over to the tribal pattedar/his legal heirs within (7) days i.e. 3.8.1999 under a cover of panchanama without serving copy of the judgement to the Revision Petitioner herein. The IA filed by him before the said authority to set aside orders passed in IA No.101/98, dated 7.12.1998 was also not taken up for enquiry and decided the main CMA 74/98 on 27.7.1999.
- vi) The Agent to Government, Khammam in his orders dated 27.7.1999 at one stage stated that on perusal of records produced by the appellant i.e. Podem Krishna, name of Kalakota Appa Rao was entered in possession column only from the year 1990-91. If Kalakota Appa Rao i.e. father of the Revision Petitioner assuming the land as purchased in the year 1990, then there is no necessity for the lower court i.e. Special Deputy Collector (Tribal Welfare) to initiate LTR proceedings against him in the years 1974 and 1979. Further, as seen from the record of CMA 74/98, the Mandal Revenue Officer, Dammmapeta in his letter Rc.No.A/366/99, dated 24.2.1999 addressed to the Agent to Government & Collector, Khammam, he has submitted pahani particulars of Patwarigudem related to Sy.No.508 from 1976 to 1995-96 wherein name of father of the revision petitioner viz., Kalakota Appa Rao was recorded in the Khastudar column.

vii) As regards another finding that the pahanies clearly show name of Turram Rajulu remained as patteddar from 1962-63 to till date while respondent's name interpolated in cultivation column from the year 1967-68 and that it is a forgery, is contradicting to his own finding that his name was entered in possession column only from 1990-91. It is an admitted fact that the pahanies are the revenue records which are under the direct control of officials in the Tahsil offices – so the Revision Petitioner can neither access them nor does he make any forgery/interpolation of the said record. The change of hand-writing with different ink may have taken place whenever the custodian officials of the said record change due to transfer or due to inter-shuffling.

viii) The father of the Revision Petitioner was also issued Rythu Pass Book and the sale of land in Sy.No.508 admeasuring a/cs.14.35 gts was also regularized vide 13-A certificate issued by Mandal Revenue Officer, Dammapeta bearing No.ROR/3740/96 Patwarigudem, dated 10.4.97 duly collecting stamp duty and fee of Rs.300/- by the Sub Registrar, Sathupalli.

ix) In addition to the above, the Additional Revenue Divisional Officer, Land Reforms Tribunal No.II, Khammam also issued orders in CC No.1838/STP/MDR, dated 3.9.1976 certifying land holdings held by father of Revision Petitioner Sri Kalakoti Appa Rao S/o Subbaiah wherein present land of a/cs.14.35 gts in Sy.No.508 and certified that the verification discloses no discrepancies and the family unit did not hold land in excess of the ceiling on the notified date i.e. 1.1.1975.

x) The Revision Petitioner herein had already admitted in his Affidavit made before the Agent to Government, Khammam on 18.12.1998 in CMA No.74/98 that Turram Rajulu and Turram Surappa sons of Turram Kotappa were alive. As seen from the orders of the Special Deputy Collector (Tribal Welfare), Palwancha in LTR case No.1072/74, dated 12.12.1975 the name of Tribal Patteddar in the cause-title was typed as "Thurram Rajulu (died) represented by (Brother) Surappa, Patwarigudem" and in the LTR case No.1050/74, dated 29.11.1975 the name of Tribal patteddar in the cause-title was typed as "Turram Rajulu (died) represented by Surappa, Patwarigudem". From this, it can be inferred that the original patteddar i.e. Turram Rajulu S/o Marappa was died and represented by Turram Surappa i.e. son of Turram Katappa (brother of Turram Rajulu original patteddar) but not Turram Rajulu S/o Katappa died. As there are three persons in the name of Turram Rajulu in the family pedigree i.e. Turram Rajulu (original patteddar), Turram Rajulu (son of Turram Katappa i.e. brother of original Patteddar Turram Rajulu) and Turram Rajulu (son of Turram Rajulu S/o Turram Katappa). Due to this confusion and erroneous entry in the cause title of LTR case No.1072/74, dated 12.12.1975, the illatom son-in-law i.e. Podem Krishna, husband of Durgamma d/o Turram Surappa (younger son of Turram Kotappa) assuming the orders of Special Deputy Collector (Tribal Welfare) were passed on the dead person Turram Rajulu S/o Katappa though he was alive as on that date, filed a representation before the Agent to Government, Khammam who entertained it as an Appeal condoning long delay of 23 years and allowed the same Appeal in his favour without verifying the facts and evidences available on record, without serving copy of the said order and handed over possession within (7) days without giving opportunity of availing limitation period of (60) days to approach the next higher for representing his grievance by way of Revision before the Government.

xi) The judgement of the Hon'ble High Court in WP No.9314 of 2007, dated 21.11.2008 contain similar facts and circumstances and against the same illatom son-in-law Podem Krishna wherein the Hon'ble High Court held as follows (gist given below) as the decisions squarely applies in the present case also.

Under Para 7 – when the proceedings were initiated against the petitioner at the instance of Turram Surappa by the Special Deputy

Collector (Tribal Welfare), Paloncha in the year 1974, the petitioner took specific stand that he purchased the property from Turram Surappa and the said Surappa attended before the Special Deputy Collector (Tribal Welfare) Paloncha and admitted of the sale in the year 1963. Recording the statement of Surappa, the authority dismissed the petition. The 5th respondent claiming to be the son-in-law of Surappa initiated the proceedings afresh. There is no fresh material placed on record. In that view of the matter, the primary authority committed grave error in ignoring the earlier order passed in case No.1050 of 1974. The appellate authority and the revisional authority also committed the same mistake in not considering the order passed in case No.1050 of 1974. In the absence of any fresh material, the proceedings initiated by the 5th respondent are wholly unjustified and orders passed by the primary authority as confirmed by the appellate authority and the revisional authority is hereby quashed and the Writ Petition filed by Sri Damera Venkata Narasimha Appa Rao was allowed.

xii) Aggrieved on the above judgement of the Hon'ble Single Judge, the said Podem Krishna filed Writ Appeal No.307 of 2009 which was dismissed on 13.3.2009 – gist of which is as follows:

It is not in dispute that respondent No.1 (Damera Venkata Narsimha Rao) purchased the property in dispute through a white paper transaction on 10.12.1961 from Sri Turram Surappa, a Scheduled Tribe, who admittedly, was the owner of the property. On recording his statement that he sold the property to respondent No.1, the Special Deputy Collector, who initiated suo motu proceedings for resumption of land, dropped further proceedings by passing an order on 29.11.1975. Few years later, one Turram Rajulu, Turram Muthyalu also filed cases. After successive dismissals of these complaints, the appellant surfaced in the scene for the first time and purported to have filed an appeal before respondent No.3 (Agent to Government, Khammam) against order dated 29.11.1975. The authorities having successively held that the transaction between Turram Surappa and respondent No.1 was a genuine one and did not violate provisions of the Regulation, it will be nothing but an abuse of process of law, if an appeal was entertained and allowed by the appellate authority after more than two decades ignoring the fact that the original owner who sold the property himself has given a statement before the primary authority that he sold the property. Another fact, which is not in dispute, is that the sale through a white paper, was subsequently regularized by the competent authority and respondent No.1 was given pattedar passbook. Therefore, Writ Appeal filed by Podem Krishna, Tribal Appellant was dismissed.

xiii) Again aggrieved on the above judgement of the Hon'ble High in Writ Appeal No.307 of 2009, the Tribal Appellant Sri Podem Krishna has filed Civil Appeal No.35 of 2011 before the Hon'ble Supreme Court of India, wherein the Hon'ble Apex Court held as follows:

(Contd...29)

"Admittedly, the sale deed was of the year 1961. As on that date, there was no prohibition under any of the enactments for selling property in question by a person belonging to scheduled tribe in State of Andhra Pradesh. The point involved is fully covered by the dictum laid down by the Full Bench of the High Court of Andhra Pradesh in the case of Gaddam Narsa Reddy & Ors. V. Collector, Adilabad District & Ors., AIR 1982 AP 1.

Since there was no prohibition for sale and purchase of the property belonging to the person coming from Scheduled Tribe as on the date of the sale deed in question in the State of Andhra Pradesh, the

High Court has rightly negative the prayer for resumption made by the appellant. Moreover, it is a clear case of abuse of the process of law inasmuch as the appellant had approached the appellate authority after 23 years, though there was no valid document in his favour to show his locus standi.

The Hon'ble Supreme Court of India has accordingly dismissed the Appeal filed by the said Tribal Appellant Podem Krishna and directed the State Government to deliver possession of land in question to the non-tribal Respondent (Damera Venkata Narsimha Rao (dead) his LRs).

21. Government after careful examination of the matter and in view of the above findings arrived upon perusal of evidences available on record, documentary evidences/grounds/written arguments and judgements of the Hon'ble High Court and the Hon'ble Supreme Court of India submitted by the Revision Petitioner in respect of a similarly situated circumstances and case foisted by the same appellant Sri Podem Krishna against one Damera Venkata Narasimha Rao and also against the present Revision Petitioner of the same Patwarigudem village in Dammapeta Mandal before the Agent to Government, Khammam, the Revision Petition filed by Sri Kalakoti Subba Rao S/o late Appa Rao R/o Patwarigudem village of Dammapeta Mandal, Bhadravadi Kothagudem District (erstwhile Khammam District), now residing at H.No.2-478, Pushkarghat Road, Tallapudi (v) & Mandal, West Godavari District in respect of the land admeasuring acs.14.35 gts in Sy.No.508 of Patwarigudem village, Dammapeta Mandal, Bhadravadi Kothagudem District (erstwhile Khammam District), is hereby ALLOWED duly setting aside orders of the Agent to Government, Khammam in CMA No. 74/98, dated 27.7.1999.

22. The District Collector, Bhadravadi Kothagudem shall take necessary action and the Tahsildar, Dammapeta is directed to hand over possession of land to the Petitioner duly evicting Sri Turram Rajulu and Turram Surappa sons of Kotappa or their legal heirs or whoever in possession under cover of panchanama.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr.CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

The District Collector, Bhadravadi Kothagudem District(By RPAD).
The Special Deputy Collector (Tribal Welfare), Bhadrachalam,
Bhadravadi Kothagudem District (By RPAD).
The Tahsildar, Dammapeta Mandal, Bhadravadi Kothagudem District(By RPAD).
Sri Kalakoti Subba Rao S/o late Appa Rao
R/o H.No.2-478, Pushkarghat Road,
Tallapudi village & Mandal, West Godavari District. (By RPAD).
Sri Podem Krishna R/o Tallamada village, Dammapeta Mandal,
Bhadravadi Kothagudem District. (By RPAD).

Copy to:

The Additional Agent to Government & Project Officer, ITDA, Bhadrachalam,
Bhadravadi Kothagudem District.

(Contd...30)

M/s Badana Bhaskar Rao & B.B.S.S Ranjith, Advocate.,
#201, Royal Residence, H.No.10-4-31-1,
Sent Terresa High School Line,
Himayathnagar, Hyderabad-500028. (By RPAD).

The P.S to Hon'ble Minister (STW)

The P.A to Secretary (TW)

The P.A to Special Secretary (TW).

SC/SF.

//FORWARDED::BY ORDER//

SECTION OFFICER.